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November 15, 2023

VIA ECF

The Honorable Dale E. Ho
 United States District Court, SDNY
 Thurgood Marshall United States Courthouse
 40 Foley Square
 New York, New York 10007

Re: *Esplanade 2018 Partners, LLC v. Mt. Hawley Insurance Company*
 Case No. 1:23-cv-03592-DEH

Dear Judge Ho:

Esplanade 2018 Partners, LLC (“Plaintiff”) and Mt. Hawley Insurance Company (“Mt. Hawley”) (collectively, the “Parties”) write jointly to request a Second Revised Civil Case Management Plan and Scheduling Order.

Background

By way of brief background, this case involves a claim for damage to Plaintiff’s office building in Metairie, Louisiana, as a result of Hurricane Ida, which occurred on or about August 29, 2021. Mt. Hawley issued a policy of commercial property insurance to Plaintiff, which, subject to all terms, conditions, limitations, and exclusions, provided coverage for damage to Plaintiff’s building.

On April 28, 2023, Mt. Hawley’s motion to transfer venue was granted and this case was transferred to this Court. The case was then assigned to Judge Jennifer Rochon; and, on June 24, 2023, the Court entered a Civil Case Management Plan and Scheduling Order (Doc. 39).

Thereafter, the Parties diligently pursued discovery, including exchanging written discovery and third-party records subpoenas. The parties also worked together to schedule their respective 30(b)(6) depositions, as well as other fact-witness depositions. However, due to the influx of cases and claims Mt. Hawley was receiving, and continues to receive, in connection with the late-August 2023 filing deadline for Hurricane Ida claims, and the recent wildfire disaster in Hawaii, the parties were unable to complete fact-witness depositions.

As such, on September 28, 2023, the parties jointly moved for, and the Court then granted, a Revised Civil Case Management Plan and Scheduling Order (Docs. 42 and 43). Shortly thereafter, on October 16, 2023, this litigation was reassigned from Judge Rochon to Your Honor (Doc. 45).

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Unfortunately, pre-existing scheduling conflicts have continued to impede the availability of the requested fact-witness deponents; and the parties thus agreed to jointly request this second extension/revision of the Case Management Plan.

The Court's September 28, 2023, Revised Case Management Plan and Scheduling Order (Doc. 44) provides the following unexpired deadlines, for which the Parties request a 60-day extension:

7. Fact Discovery

* * * *

- d. Depositions shall be completed no later than January 13, 2024.
- e. All fact discovery shall be completed no later than January 13, 2024.

8. Expert Discovery, if any

- a. Plaintiff's expert disclosures pursuant to Federal Rule of Civil Procedure 26(a)(2) shall be made no later than January 27, 2024.
- b. Defendant's expert disclosures pursuant to Federal Rule of Civil Procedure 26(a)(2) shall be made no later than February 10, 2024.
- c. All expert discovery, including expert reports and depositions, shall be completed no later than March 26, 2024.

* * * *

12. All discovery must be completed no later than March 26, 2024.

Considering the ongoing scheduling difficulties discussed above, the parties jointly and respectfully submit there is good cause to further revise the Case Management Plan and Scheduling Order. In an effort to avoid any such additional request in the future, the Parties respectfully request a 60-day extension of each of the remaining unexpired deadlines in this litigation. The Parties have enclosed herewith a proposed Second Revised Civil Case Management Plan and Scheduling Order providing the following revised deadlines:

7. Fact Discovery

* * * *

- d. Depositions shall be completed no later than March 13, 2024.
- e. All fact discovery shall be completed no later than March 13, 2024.

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8. Expert Discovery, if any
 - a. Plaintiff's expert disclosures pursuant to Federal Rule of Civil Procedure 26(a)(2) shall be made no later than March 27, 2024.
 - b. Defendant's expert disclosures pursuant to Federal Rule of Civil Procedure 26(a)(2) shall be made no later than April 10, 2024.
 - c. All expert discovery, including expert reports and depositions, shall be completed no later than May 27, 2024.

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12. All discovery must be completed no later than May 27, 2024.

This is the second request for modification of the Scheduling Order made jointly by the Parties, or made separately by either of them, and it is made not for delay only, but so that the Parties can appropriately prepare this case for trial, and so that justice may be done.

We appreciate the Court's consideration.

Respectfully submitted,

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Application GRANTED IN PART.

A 30-day extension of the final discovery deadline is granted. The parties may alter any interim discovery deadlines by consent and without approval of the Court. All discovery must be completed no later than **April 25, 2024**. As this is the second extension request (ECF No. 42), the parties are advised that further extensions to the discovery deadlines are unlikely to be granted absent extraordinary circumstances.

The Clerk of Court is respectfully requested to close the open motion at ECF No. 46.

SO ORDERED.



Dale E. Ho
United States District Judge
Dated: November 16, 2023
New York, New York